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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,352	11/19/2001	Norman R. Pallas	39-21 (51844)F MTC 6801	8761
321	7590	10/12/2005	EXAMINER	
SENNIGER POWERS LEAVITT AND ROEDEL			CLARDY, S	
ONE METROPOLITAN SQUARE			ART UNIT	
16TH FLOOR			PAPER NUMBER	
ST LOUIS, MO 63102			1617	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,352

Applicant(s)

PALLAS ET AL.

Examiner

S. Mark Clardy

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,8,9,18-25,31-34,37-41,46,48,49,59,60,64,65,68,69,75,76,80 and 126-129 is/are allowed.
- 6) ☒ Claim(s) 58, 63, 74, and 79 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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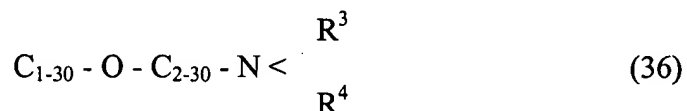
Claims 1, 8, 9, 18-25, 31-34, 37-41, 46, 48, 49, 58-60, 63-65, 68, 69, 74-76, 79, 80, and 126-129, are pending in this application which is a continuation-in-part of SN 09/926,521, which was filed under 35 USC 371 as the national stage application of PCT/US01/16550, filed May 21, 2001, which claims the benefit under 35 USC 119(e) of US Provisional Applications No. 60/206,628 (May 24, 2000), 60/205,524 (May 19, 2000), 60/273,234 (March 2, 2001), and 60/274,368 (March 8, 2001).

Applicants' claims are drawn to aqueous pesticidal microemulsion compositions comprising a glyphosate, a water immiscible organic solvent, and a surfactant system comprising an alkoxyated amine cationic surfactant (optionally with a nonionic surfactant) and a stabilizer compound which is:

1. Alkylamine or quaternary ammonium salts thereof selected from: Dimethylcocoamine, hexylamine, dimethylhexylamine, octylamine, dimethyloctylamine, dodecyltrimethylamide, C₄₋₈ trialkylamines (independent claims 1 and 31).

2. alkyl or aryl amine having not more than 10 EO units in a cationic surfactant:stabilizer ratio of 1.5:1 to about 6:1 (independent claims 41 and 65).

Applicants' elected species comprises the herbicide glyphosate as the pesticidal agent, and the cationic alkyletheramine surfactant for formula 36:



wherein R³ and R⁴ are H, C₁₋₃₀, or -(C₂₋₄-O)₁₋₅₀ - H/C₁₋₄.

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The claims have been amended to require glyphosate as the pesticidal component and an alkoxylated amine cationic surfactant in the surfactant component. Octylamine appears to be the preferred stabilizer (see claims 126-129).

All claims have been examined; none remain withdrawn.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 58, 63, 74, and 79 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 58 and 74 are dependent on canceled claims.

Claims 63 and 79 now lack antecedent basis for the phrase "said at least on cationic surfactant". In both claims, it should be amended to read "'said at least one alkoxylated amine cationic surfactant". Further, the extensive variations and substitutions in the recited lists of surfactants must be amended to exclude the possibility of any of the recited structures reading on anything other than an alkoxylated amine compound.


Claims 1, 8, 9, 18-25, 31-34, 37-41, 46, 48, 49, 59-60, 64, 65, 68, 69, 75, 76, 80, and 126-129, are allowable over the cited prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mark Clardy whose telephone number is 571-272-0611. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "S. Mark Clardy", with a stylized flourish extending from the end.

S. Mark Clardy
Primary Examiner
Art Unit 1617

October 3, 2005

Continuation of Disposition of Claims: Claims pending in the application are 1,8,9,18-25,31-34,37-41,46,48,49,58-60,63-65,68,69,74-76,79,80 and 126-129.